

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TINA MARIE BIZZINI,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:21-CV-228-HBK

ORDER GRANTING PARTIES' JOINT
MOTION TO REMAND UNDER SENTENCE
FOUR OF 42 U.S.C. § 405(g), REVERSING
FINAL DECISION AND REMANDING
CASE¹

(Doc. No. 21)

ORDER FINDING MOTION FOR
SUMMARY JUDGMENT MOOT

(Doc. No. 20)

Pending before the Court is the parties' Joint Motion to Remand filed on April 12, 2022 (Doc. No. 21). Plaintiff Tina Maria Bizzini and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.* at 1-2).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision.

¹ Both parties have consented to the jurisdiction of a magistrate judge, in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 11).

1 *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney’s fees under
2 the Equal Access to Justice Act and calculating deadline using date of final judgment). The
3 *Melkonyan* Court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –
4 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a
5 judgment affirming, modifying, or reversing the decision of the Secretary, with or without
6 resetting the cause for a rehearing.” *Id.* at 98 (other citations omitted).

7 The Court grants the parties’ motion to remand. As agreed by the parties, upon remand to
8 the Administrative Law Judge, the office of hearing operations will “**instruct the ALJ to offer**
9 **Plaintiff the opportunity for a hearing, to further evaluate Plaintiff’s alleged symptoms, to**
10 **further evaluate the medical opinions and prior administrative medical findings, to further**
11 **assess the residual functional capacity, and to issue a new decision.**” (Doc. No. 21 at 1-2)
12 (emphasis added).

13 Accordingly, it is **ORDERED**:

14 1. The parties’ Joint Motion to Remand (Doc. No. 21) is GRANTED and this case is
15 REMANDED back to the Commissioner of Social Security for further proceedings consistent
16 with this Order.

17 2. A motion for attorneys’ fees may be filed by separate motion.

18 3. Plaintiff’s Motion for Summary Judgment (Doc. No. 20) is MOOT.

19 4. The Clerk shall enter judgment in favor of Plaintiff, terminate all deadlines, and close
20 this case.

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22 Dated: April 13, 2022

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24 HELENA M. BARCH-KUCHTA
25 UNITED STATES MAGISTRATE JUDGE
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